

**MINUTES
CHICOPEE MOBILEHOME RENT CONTROL BOARD
FEBRUARY 15, 2011 @ 6:00 P.M.**

MEMBERS PRESENT

Robert Hopkins, Sharyn Riley, Ronald Lafond

ALSO PRESENT

Christine Lessing Provost, Attorney to the Board
Chantal Paul, Secretary to the Board

OLD BUSINESS

Robert Hopkins: First order of business is a motion to approve the minutes of November 1, 2010. Motion to approve the minutes?

Ronald Lafond: I make motion to approve.

Robert Hopkins: All in favor?

Board: Yes.

Robert Hopkins: Motion passes with no additions or corrections as noted. **Motion passes unanimously.**

Robert Hopkins: The other thing we did at our last meeting was made some adjustments to the Rules, nothing major. Basically saying that if the owner is notifying their tenant, they have to notify them on their letterhead. Alright we are here today to discuss the request of the Holiday Mobilehome Park Phase 1 and 2 for an increase in rent at the mobilehome park and the first order of business is, as required by Rule 3, I must read to you the Rules of the City of Chicopee Mobilehome Park Rent Control Board.

(Bob reads Rules...)

The order of business after reading the minutes and after the reading of the Rules is to proceed with the request of the Holiday Park Phase 1 and Phase 2. So, at this time, what I would like to do as per the Rules is have the owner or who is representing the owner come to the podium and make their presentation please.

David Sanborn: Good evening, my name is David W. Sanborn and I am here tonight as attorney for the petitioner at the Holiday Mobilehome Park. I believe the Board has reviewed the petitioner's submission. Jean Real Estate operates Holiday Mobilehome Park which has two Phases. They also operate the Kon Tiki Mobilehome Park. Some of the expenses, things like

administrative expense are shared by all of these parks. We allocated that kind of expense bases upon the number of sites. Holiday has 128 sites and Kon Tiki has 33 sites. We made an 80% allocation to Holiday and a 20% to Kon Tike. The formula that the City of Chicopee (inaudible) reasonable operating expenses, and the other is called the fair return to the owner and the fair return is the product of the fair market value of the park and what they defer to as the debt service rate that a commercial first mortgage lender would allow on a loan. They are separate appraisals on Phases 1 and 2 from Crowley and Associates. They appraised Phase 1 at \$825,000 and Phase 2 at \$1,975,000.00. The debt service rate we asked an opinion from Kevin Van, a well-known accountant and his opinion is in the file at 6.50 %.

Goes through proposal item by item explaining every detail.

Robert Hopkins: I'd rather that you proceed with all your information first and then give the tenants an opportunity to ask questions. Let's hear the whole thing first.

David Sanborn: Okay, moving on...continues with the listed items.

Robert Hopkins: I'd rather hear from the tenants and ask questions at this time.

Robert Lefebvre: Mr. Chairman, my name is Robert Lefebvre, I represent the Tenant's Association, I will be providing a response.

Robert Hopkins: Do you wish to ask any questions of this attorney at this time.

Robert Lefebvre: I have a question, on the snow removal how many bids were solicited? You have one quote in the package.

Anita Rondeau: Just the one. The time-frames we were under (inaudible).

Robert Lefebvre: You're willing to work with the Tenant's Association in terms choosing...

Anita Rondeau: Absolutely.

Robert Lefebvre: It is my understanding that the roads haven't received a second coat. Can you comment on that?

Andrew Yee: To comment on the second coat, that is a mandate from the City of Chicopee that has to be provided.

Robert Lefebvre: Attorney Sanborn, are there any tax returns associated with Jean Real Estate for these new administrative costs?

David Sanborn: In 2010 they are making the adjustments, Jean Real Estate write a check to the Hukelau for rent and Jean Real Estate has paid checks to the bookkeeper and the Hukelau has paid her separately for her bookkeeping work. She gets separate W-2's.

Robert Lefebvre: Are the same contractors servicing anybody other than these three parks?

Anita Rondeau: What contractors:

Robert Lefebvre: The office manager, anybody that utilizes the office, other than the parks themselves.

Anita Rondeau: No.

Robert Lefebvre: The individual that picks up the trash for instance, he is otherwise employed at the Hukelau?

Anita Rondeau: Yes he is.

Robert Lefebvre: Does he do trash removal for other companies.

Anita Rondeau: No.

Robert Lefebvre: The same thing with property maintenance landscaping and the lights, their employees from the Hukelau.

David Sanborn: The gentleman who was picking up the rubbish is charging so much per site. When you add it up the annual expense is (inaudible). So it would be nice if he kept on.

Robert Lefebvre: I don't have any further questions at this point.

Robert Hopkins: Anything else from the owner's side before we have response of the tenants. Okay the tenants speak next.

Robert Lefebvre: My name is Robert Lefebvre, I have been retained to represent the Tenant's Association in responding to the request for rent increase this evening. I've just been recently retained, Scott Fiske, a resident of the park has filed a response and I think the response represents the concerns of the Tenant's Association and I'm going to comment of some of the issues that were raised by Mr. Fiske. And we also had James Lowe, who is a CPA in Chicopee, who has experience with mobilehome parks review the proposal and provide us with some comments regarding those numbers. Mr. Chairman, with your permission, I'd like to submit these to the Board.

Robert Hopkins: Is this considered rebuttal testimony?

Robert Lefebvre: Two things, either rebuttal testimony or as a supplement to my argument, it's not additional evidence.

Robert Hopkins: It's supplemental to Mr. Fiske's comments?

Robert Lefebvre: Correct.

Robert Hopkins: The deadline for producing new evidence has passed for both parks?

Robert Lefebvre: Correct.

Robert Hopkins: Attorney Lessing, is that acceptable?

Attorney Christine Lessing-Provost: Yes.

David Sanborn: Mr. Chairman, I'd like to (inaudible) my objection, I think this is new evidence and it is way past the January 10th deadline.

Robert Hopkins: Let's take a moment, Attorney Lessing, (inaudible).

Robert Lefebvre: I apologize for the late note, I just received this document today.

Robert Hopkins: I'm not sure if, in fact, this is new evidence or supplementary to Mr. Fiske's letter.

Robert Lefebvre: Mr. Chairman, I can't say, it doesn't comment on any new information that wasn't presented by Mr. Fiske.

David Sanborn: Mr. Chairman, We did offer to file some supplemental information also but the deadline passed and we couldn't file it.

Robert Hopkins: Because this is a legal question right now, as to whether we can introduce this, it is something that amplifies, clarifies it is considered new evidence, it is not going to be allowed under the Rules. I'm going to give Attorney Lessing 10 minutes. Let's take a 15 minute recess.

Hearing Reconvened

Robert Hopkins: Reconvening the meeting at 7:12 p.m. Attorney Lessing had an opportunity to look at the document that was submitted for presentation to the Board.

Christine Lessing-Provost: I have.

Robert Hopkins: What do you advise.

Christine Lessing-Provost: At this time I would advise you not to accept it, it is new evidence, therefore, the time-line was quite some time ago and passed, therefore, it should not be accepted at this time.

Robert Hopkins: We need a Motion from the Board to confirm that?

Sharyn Riley: I make a Motion.

Robert Hopkins: Motion is that the Board considers this as the passed deadline and not eligible for discussion in terms of being considered as new evidence.

Do we make a Motion? Second.

Board: Yes.

Robert Hopkins: *Motion passes unanimously.*

Robert Lefebvre: Thank you Mr. Chairman. I do have a sketch of the park I think would be helpful for the Board to see because there is Phase 1 and Phase 2, there's a significant difference in the layout of the two parks, if I can present this?

Christine Lessing-Provost: Maybe there can be an agreement.

Robert Hopkins: If you guys want to agree to it, that's fine.

Seeing there are no objections, we will accept this for consideration and discussion. Okay Mr. Lefebvre, you may proceed

Robert Lefebvre: As Mr. Fiske pointed in his response, it appears that the community is a well-maintained community and that, by large, the Yee family and Jean Real Estate do a good job maintaining the park. Although, we have to keep in mind that it is a limited maintenance park. All of the residents maintain their own sites. In Phase 1 there's only one road, a horseshoe shaped road, in Phase 2 the owners pay water and sewer. That's a distinction that's important. The proposed rent increase is \$77.96 for Phase 1, that's an 83% proposed rent increase. Phase 2 is \$61.48, that's a 53% increase. The expenses for 2010 that are being proposed represent a 33% increase for Phase 1 and a 30% increase for Phase 2, so the proposed rent increases are fairly significant over the amount of expenses. When we talk about profit, Attorney Sanborn alluded to a formula that set out in the City Ordinance and also spelled out to us in the Attorney General Regulations in the rent control laws. There is a formula based on the value of the park, operating income and then the debt service ratio. So 6.5% is the percentage that the banks are lending to businesses and their using that to base their argument that a fair return should be the multiplier what the value of the park is. But also the rent control regulation also says "or such other rates as the board may determine or deem appropriate". So the Board has discretion to use the formula or to determine what rates should be based on other factors. Why did the operating expenses go up so dramatically from 2009 to 2010, I don't think we knew that until this evening, but it sounds like a lot of these expenses were being supplemented by another entity, I understand the Hukelau, and now some of those expenses have to be picked up by the park itself. For Phase 1 there is a profit of 63%, on Phase 2 there is a profit of 54%. Phase there is a profit of \$40,392 represented a 63% profit for 09 expenses and for Phase 2 there is a profit of \$129,054, and that represented a 54% profit. That's a pretty reasonable return on your investment, I'd say. Since the park was developed in 1994 and 1996 they established what the rates were going to be, that wasn't dictated by the Rent Control board, they established their own rates and from the numbers they have given us they made a substantial profit or return on their investment. The fact that they have not had a rent increase in the past 14 or 16 years, I think is

not relevant to the discussion because they have been making a reasonable return. I think we have to look at the operating expenses for 2010 carefully. There is some significant increases in the operating expenses for 2010, the only problem is we don't have the full financial information for 2010. We only have partial year information and we have estimates. So I'm not sure if we could justify a rent increase on those expenses. The other concern is some expenses that have not yet been incurred. There's a lot of expenses in there that have been projected. So I'd argue that perhaps those aren't expenses to be considered in a rent increase at this point but that we be given an opportunity to discuss with the owners what the options are for those large proposed rent increases. I think, Mr. Chairman, that our position is that any rent increase should be limited only to the legitimate increases in actual operating expenses, not capital improvements, not proposed expenses. The other concern we have is there is no real supporting documentation other than the invoices for actual payments. We haven't seen tax returns. Scott Fiske indicated that Phase 1 there are 34 units, not 33 units, and indicated that one of the lots that was initially proposed for Phase 2 ended up being located in Phase 1. They pay water and sewer, but their credited for Phase 2.

David Sanborn: That's the same unit that we would give them \$50.00 off of their rent.

Robert Lefebvre: Mr. Chairman, in the proposal the problem is those incorrect numbers are being used toward the calculations on the rent increase. Based on just the 09 numbers, there's still a significant thought that if we back out the capital improvements there's still a profit being made.

Robert Hopkins: Would the tenants like to speak?

Jay Tucker: I live at 104 Holiday Circle. There's a question regarding the proposed dumpsters. Do you have a location identified where you would put those dumpsters?

Anita Rondeau: Inaudible.

Robert Hopkins: Last call, any other questions?

Generally, in the past the Board has not entertained any future projects for capitalization in park rent increase. We are on good ground to continue that philosophy?

Christine Lessing-Provost: Yes.

Robert Hopkins: We don't allow increases on future projects. Any questions for either party?

Sharyn Riley: I went through this a few times and I had a hard time with some of it. Some of the invoices are not really...on memo pad, you can't really justify who it's for or where it's from, the separation of Hukelau and park. I was looking for tax returns, that were not there that we normally would see. If I had any questions, my question would be looking at the tax return for the past two years. At this point, to the chair, I'm not sure how we ask for information we don't have.

Robert Hopkins: We are allowed to ask questions of either party for clarification. I think that it is possible to convene a part 2 to this meeting. We want to be fair. Are tax forms that have to be shared with the tenants, Attorney Lessing?

Christine Lessing-Provost: Yes.

Robert Hopkins: So if they present it is it additional evidence?

Christine Lessing-Provost: Yes.

Robert Hopkins: As like you, I was a little confused. Each of the tenants entered into a tenant/landlord relationship at a different time with a different contract, this is the first time, to my knowledge, that your corporation has come forward for a rent increase. You haven't been here in 15 years.

Christine Lessing-Provost: Mr. Chairman, I know we're talking about asking and mentioning additional documentation that we do not have, which then proceeds the question of additional evidence.

Robert Hopkins: I'm not sure if it's a clarification of the documents to back it up or if it constitutes new evidence for us to consider. If we don't have it, we cannot use it at this time.

Sharyn Riley: I think we're used to seeing actual cost incurred, not a stack of invoices to go through, what you've actually expended.

Robert Hopkins: Generally, we don't fund future capitalization or projects that are not completed on a rent increase.

Sharyn Riley: I do have a question as far as the rent control costs? I don't ever recall seeing something associated with that.

Robert Hopkins: I believe they had their attorney's fees and their printing fees left together and according to our role, the printing and mailing fees are separate and not to be included in the proposal.

David Sanborn: One of the costs involved to that question is (inaudible).

Robert Hopkins: Well, again, correct me if I'm wrong Attorney Lessing, but any information that we are going to consider at this point, proposals been made, motions have been made for extensions which were denied based on deadlines. I believe Attorney Lessing said the tax information would be new information. We need to deliberate based upon what we have less any request for clarification. Anything you share with us, you have to share with them. This isn't a \$12.00 a month raise, this has a big impact.

Let's start on this, deem and proper. We want to look at the actual expenses and not the projected. We talk about the reasonableness of expenses, not how they run their business.

Alright, I am looking at 2010 projections. Again, this evidence was shared with the owner's as well?

Christine Lessing-Provost: May I interject for one... and maybe we can ask both parties, did anybody maybe they just didn't get, have one of these for 2009 in their packet? Did you have one?

Robert Lefebvre: I did not, I only saw 2010.

Christine Lessing-Provost: It's fair to say it does not exist, Attorney Sanborn?

David Sanborn: There should be a summary sheet for 2009.

Christine Lessing-Provost: We do not have it. It was not included in the original packet.

Robert Hopkins: Therefore, it would also be considered new evidence. It missed the deadline, so we can't consider it tonight.

David Sanborn: Inaudible.

Robert Hopkins: We do not have a summary page. Bob goes through proposal item by item...

Under administrative costs, what should we back out of that, other than the rent control printing?

So everything under Section 1 deems to be reasonable and proper?

Sharyn Riley: Yes, except for the (inaudible).

Robert Hopkins: We're going to have too much homework to finish this tonight. I would like to have another meeting on this proposal in 30 days. Just to clarify, we have received all the evidence we can, next meeting will be a discussion by the members of the Board.

Tuesday, March 15th is the continuation of tonight's meeting.

Motion to adjourn at 8:24 p.m.